

The Department is authorized to pursue unpaid Use Tax from Use Tax collectors on Illinois sales. See Section 8 of the Use Tax Act (35 ILCS 105/8) (This is a GIL).

April 1, 2002

Dear Xxxxx:

This letter is in response to your letter that we received on January 25, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I am writing this letter in the hope of getting a clarification on a point that is unclear to me. We are an STATE based electrical wholesaler and because of new branches CITIES, we do incur Illinois sales. Our business desire is to charge everyone sales tax until we have received a valid exemption certificate from them. We use the accrual method. We remit based off of when it is invoiced. Occasionally, we bill someone the sales tax but when they pay the invoice, they pay it short of the sales tax and line out the sales tax. Example, we sell material for \$100.00 and sales tax for \$6.25 so that the total invoice is for \$106.25. The customer may draw a line through the \$6.25 and send us a check for \$100.00. The ruling I want from you is: who is responsible for the \$6.25? I don't believe it is reasonable to expect us to sue this contractor for \$6.25. I have fulfilled my obligation to Illinois. We would also have followed this up asking for an exemption certificate. Some of these people would not have responded. In my thinking, Illinois' receivable is now from that customer. The onus is upon the customer. If the customer continues to deduct sales tax without giving us a certificate we would simply cease doing business with them. I know many other States release the seller from responsibility provided they charged the tax. I would greatly appreciate receiving something definitive from your department on this issue.

Thank you in advance for your attention to this matter.

Your company is registered as a Use Tax collector for the State of Illinois. Please be advised the Department is authorized to pursue unpaid Use Tax from Use Tax collectors on Illinois sales. This is because Section 8 of the Use Tax Act (35 ILCS 105/8) states in part that:

"Any retailer required to collect the tax imposed by this Act shall be liable to the Department for such tax, whether or not the tax has been collected by the retailer."

The Department is also authorized to collect unpaid Use Tax from users. This is a joint and several liability. However, the Department will not collect the Use Tax twice. Upon satisfaction of the liability by one party, the Department will not pursue it against the other.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz  
Associate Counsel

KWB:msk